

EXHIBIT E

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9 NATIONWIDE MUTUAL INSURANCE COMPANY

FILED

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8. TORRE, CLAY & CO., ATTORNEYS AT LAW
COUNTY OF CONTRA COSTA, CALIF.

BY: C. Green, Deputy Clerk

8
9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10
11 IN AND FOR THE COUNTY OF CONTRA COSTA

12 SEAN MICHAEL CARTER,
13 Plaintiff,
14 vs.
15 K&K INSURANCE GROUP, INC.,
16 d/b/a/SPECIALTY BENEFITS
17 ADMINISTRATOR, INC.; NATIONWIDE
18 LIFE INSURANCE COMPANY;
19 NATIONWIDE MUTUAL INSURANCE
20 COMPANY; AON CORPORATION, and
21 DOES 1-100,
22 Defendants.

11 CASE No. C 07-01357
12
13 ANSWER TO PLAINTIFF'S
14 COMPLAINT BY DEFENDANT
15 NATIONWIDE MUTUAL INSURANCE
16 COMPANY

BY FAX

20 Defendant NATIONWIDE MUTUAL INSURANCE COMPANY ("defendant") answers
21 the complaint of Plaintiff SEAN MICHAEL CARTER ("plaintiff") as follows:

22
23 GENERAL DENIAL

24 Pursuant to the provisions of California Code of Civil Procedure section 431.30(d),
25 defendant denies each and every allegation of the complaint, generally and specifically, and in
26 particular, denies that Plaintiff was damaged in any sum, or at all.

27
28 AFFIRMATIVE DEFENSES

As separate affirmative defenses to the Complaint, defendant alleges:

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the terms, provisions and conditions of the insurance policy issued by defendant under which plaintiff seeks relief.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because defendant has paid all contractual benefits owed to plaintiff under the insurance policy issued by defendant under which plaintiff seeks relief.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims for punitive damages against defendant are unconstitutional.

PRAYER

WHEREFORE, Defendant requests that the court enter judgment in this action as follows:

1. That plaintiff takes nothing by his complaint;
2. For a judicial determination that defendant had no obligation under the express or implied terms of the relevant insurance policy to provide any additional insurance benefits to plaintiff beyond those paid to date;
3. That judgment be rendered in favor of defendant;
4. That defendant be awarded costs of suit incurred herein, including reasonable attorney's fees; and
5. For such other and further relief as the Court deems just and proper.

Dated: November 1, 2007

LONG & LEVIT LLP

By

KAREN L. UNO
DAVID P. BOROVSKY
Attorneys for Defendant
NATIONWIDE MUTUAL
INSURANCE COMPANY

DOCS\SS5240-337\540969.V2

PROOF OF SERVICE

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action. My business address is Long & Levit LLP, 465 California Street, Suite 500, San Francisco, CA 94104.

On November 1, 2007, I served the documents named below on the following attorney(s) of record and/or interested parties in the case of *Sean Michael Carter v. K&K Insurance Group, Inc. et al*, Contra Costa County Superior Court, Case No. C 07-01357:

**ANSWER TO PLAINTIFF'S COMPLAINT BY DEFENDANT NATIONWIDE
MUTUAL INSURANCE COMPANY**

SERVED UPON: ATTORNEY(S) NAMES - OR - "SEE ATTACHED SERVICE LIST"

Attorneys for Plaintiff Sean Michael Carter

Attorneys for Defendant K&K Insurance Group, Inc., dba Specialty Benefits Administrator, Inc.

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Robert A. Lewis

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- (BY MAIL) I am readily familiar with Long & Levit LLP's practice for collection and processing of documents for mailing with the United States Postal Service. I caused such document(s) to be placed in a sealed envelope, addressed to the person(s) on whom it is to be delivered pursuant to the attached service list, with postage thereon fully prepaid, to be deposited with the United States mail at San Francisco, California, that same day in the ordinary course of business. [CCP § 1013]
- (BY FACSIMILE) I caused the document(s) described herein to be transmitted from facsimile number (415) 397-6392 to the facsimile number(s) for each party indicated above

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 1, 2007, at San Francisco, California.

Patricia Hayman
PATRICIA HAYMAN

PATRICIA HAYMOND

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AMENDED PROOF OF SERVICE

2 I am employed in the City and County of San Francisco, California. I am over the age of
 3 18 years and not a party to the within action. My business address is Long & Levit LLP, 465
 California Street, Suite 500, San Francisco, CA 94104.

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Inc. et al, Contra Costa County Superior Court, Case No. C 07-01357:

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MUTUAL INSURANCE COMPANY**

7 SERVED UPON: ATTORNEY(S) NAMES – OR – “SEE ATTACHED SERVICE LIST”

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18 I declare under penalty of perjury under the laws of the State of California that the foregoing
 19 is true and correct. Executed on November 1, 2007, at San Francisco, California.

20 
 21 PATRICIA HAYMOND

22 DOCS\SS5240-337\541074.V1